

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

NASSAU MARITIME HOLDINGS
DESIGNATED ACTIVITY COMPANY
Plaintiff

VERSUS

M/V PACIFIC SKY, her engines, tackle,
appurtenances, etc., *in rem*, and PACIFIC SKY
NAVIGATION LTD. *in personam*
Defendants

CIVIL ACTION

NO. 2:20-CV-00355

JUDGE JAMES D. CAIN, JR.

MAG. JUDGE KAY

ORDER FOR INTERLOCUTORY SALE

IT IS ORDERED as follows with respect to the sale of the M/V PACIFIC SKY (IMO # 9408554):

The United States Marshal shall conduct a public sale of the M/V PACIFIC SKY within thirty (30) days of entry of this Order, or as soon thereafter as practical, at the entrance of the United States Court House, 800 Lafayette Street, Lafayette, Louisiana 70501, upon notice and subject to the terms of the sale set forth below. The United States Marshal shall sell the M/V PACIFIC SKY as is, where is, with no warranties, at public auction to the highest bidder(s), free and clear of all liens, preexisting claims, and encumbrances on the M/V PACIFIC SKY. The sale is subject to confirmation by the Court.

Plaintiff Nassau Maritime Holdings Designated Activity Company (“Plaintiff” or “Nassau Maritime”) is responsible for the advertisement of notice of the sale pursuant to Local Rule 64.5 and 64.6 of the Supplemental Admiralty Rules of this Court. Notices of the sale shall be published in the *Lake Charles American Press* and *Lafayette Daily Advertiser* on at least three (3) different days, the first of which must be published at least ten (10) days and the last at least three (3) days before the date of the sale.

The advertisement shall be in substantially the following form:

THE U.S. MARSHALS SERVICE
NOTICE OF SALE OF VESSEL

TO: United States District Court, Western District of Louisiana, Lake Charles Division

Kevin J. LaVie, as attorney and representative of Nassau Maritime Holdings Designated Activity Company in the matter of **Nassau Maritime Holdings Designated Activity Company versus M/V PACIFIC SKY, her engines, tackle, appurtenances, etc., *in rem*, and Pacific Sky Navigation Ltd., *in personam*, Civil Action No. 2:20-CV-00355.**

Pursuant to an Order of the United States District Court, Western District of Louisiana, Lake Charles Division dated November 13, 2020, Rec. Doc. 62.

The U.S. Marshal's Service for the Western District of Louisiana, hereby gives Notice that the M/V PACIFIC SKY, IMO Number 9408554, and all her engines, tackle, machinery, equipment and other appurtenances, as well as bunkers remaining on board, will be sold at Public Auction, as is, where is, free and clear of all liens, encumbrances and pre-existing claims on the vessel, whether recorded or not, to the highest bidder at 10:00 a.m. on the 16th day of December, 2020, at the United States District Court, 800 Lafayette Street, Lafayette, Louisiana 70501, with all risks to be assumed by the purchaser at that time.

A deposit of at least ten percent (10%) of the bid shall be paid by the highest bidder within 3 banking days of the Public Auction. The remaining balance of the sale price shall be paid on or before confirmation of the sale and within ten (10) banking days of the adjudication or dismissal of any opposition which may have been filed. If an objection to the sale is filed within that time, the bidder is excused from paying the balance of the purchase price until the sale is confirmed, and for a period of three (3) banking days thereafter. If the bid is not paid when due, the deposit shall be forfeited by the bidder and applied to the costs in this action. All payments to the U.S. Marshal's Service shall be in cash or certified check, or cashier's check on a local bank.

Inquiries regarding the vessel may be directed to plaintiff's attorneys, Kevin J. LaVie or Magdalini Galitou, PHELPS DUNBAR LLP, Canal Place, 365 Canal Street • Suite 2000, New Orleans, Louisiana 70130-6534, Telephone: (504) 566-1311.

Inspection of the vessel may be arranged through plaintiff's counsel below and the U.S. Marshal's Service, 800 Lafayette Street, Lafayette, Louisiana, 70501, by executing a Waiver of and Release from Liability form acceptable to the U.S. Marshal's Service Office.

Nassau Maritime, at its sole discretion, may effect such other advertising covering a more extensive area as can be reasonably secured at a reasonable cost. The expenses of such additional advertisement shall be taxed as *custodia legis* expenses.

Nassau Maritime may also retain a broker or brokers for the sale of the vessel, and if any broker(s) is/are retained and is/are responsible for bringing the successful bidder to the auction, the broker(s) will be entitled to a total commission of one percent (1%) of the winning bid amount, payable from the proceeds of the sale as a *custodia legis* expense.

Nassau Maritime or any broker retained pursuant to this order may appoint a competent local surveyor to conduct a complete condition survey, including, if necessary, an underwater hull bottom survey, which can be provided to prospective bidders. The costs of any such survey or surveys will be payable from the proceeds of the sale as a *custodia legis* expense.

The appointed substitute custodian of the M/V PACIFIC SKY, at the request of an interested person, shall grant permission to said person or that person's representative to visit, board, inspect, examine, and survey the M/V PACIFIC SKY during the daylight hours of any day between the date hereof and the date of the sale, provided that the same shall be done at the sole expense and risk of any such person or representative and upon reasonable terms set by the substitute custodian, and that any such individuals shall first present to the United States Marshal's office located at 800 Lafayette Street, Lafayette, Louisiana 70501, Suite 2100 (telephone: (337) 593-5000) to sign a waiver and release acceptable to the U.S. Marshal.

Consistent with Local Admiralty Rule 64.6, the highest bidder for the M/V PACIFIC SKY at the sale shall, within three (3) banking days of the Public Auction, deposit with the Marshal at least ten (10%) percent of the amount of the bid for the M/V PACIFIC SKY or

\$500.00, whichever is greater, said deposit to be by cash or certified check, or cashier's check on a local bank. The highest bidder must pay the balance of the purchase price in full on or before confirmation of the sale by the Court and within ten (10) days of the adjudication or dismissal of any opposition which may have been filed, and that balance likewise shall be paid by cash or certified check, or cashier's check on a local bank. If a written objection is filed within three (3) business days of the sale, exclusive of Saturdays, Sunday and legal holidays, the high bidder may defer payment of the balance until the sale is confirmed. If the high bidder does not pay the full balance of the purchase price due on or within ten (10) banking days of the confirmation of the sale, then the deposit shall be forfeited to the action, applied to costs, and then paid to the registry of the Court. In this situation, the Court may, with the approval of Nassau Maritime, and of the second highest bidder, confirm the sale to him or her.

If the sale should not be confirmed, the United States Marshal shall return the deposit to the highest bidder immediately after rejection of the bid by the Court.

The United States Marshal shall deposit the proceeds of the auction, minus any U.S. Marshal Service fees and expenses associated with the sale, in the registry of this Court to stand in the place of the M/V PACIFIC SKY pending further disposition of this action. The United States Marshal's official report of the sale shall be filed with this Court as soon as practicable.

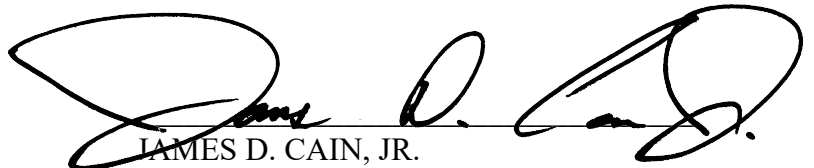
Any and all objections to the sale must be in writing and must be filed with the Clerk of the Court and the United States Marshal, with copies to all counsel of record, within three (3) business days of the sale date, exclusive of Saturdays, Sundays and legal holidays. Objections shall be accompanied by a cost deposit of \$250,000.00 (approximately 30 days of custodial costs), to be paid in cash or certified check, or cashier's check on a local bank. If the objection

fails, all costs of keeping the property during pendency of the objection shall be paid from the cost deposit.

After this Court has confirmed a sale pursuant to this Order, the U.S. Marshal shall deliver a bill of sale of the M/V PACIFIC SKY to the confirmed purchaser and the M/V PACIFIC SKY shall be conveyed by the United States Marshal free and clear of all liens and encumbrances.

This Court shall retain jurisdiction of the above cause for such further proceedings as may be appropriate.

THUS DONE AND SIGNED in Chambers on this 13th day of November, 2020.



JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE